



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable F. B. Caudle
County Attorney
Franklin County
Mt. Vernon, Texas

Dear Sir:

Opinion No. 0-2078

Re: If a court reporter is absent during a term of the district court and a substitute stenographer is used under the direction of the court, is a county liable to the court reporter for his official fees and at the same time liable for fees to the substitute reporter?

Your recent request for an opinion of this Department on the above stated question has been received.

Your letter reads in part as follows:

"If a Court Reporter is absent during a term of the District Court - absent from illness or any cause - and a substitute stenographer is used under direction of the Court, is a County liable to the Court Reporter for his official fees, and at the same time liable for fees to the substitute Reporter?"

"By way of explanation for the above question, I give further information. The judicial District is composed of more than one County. You understand that the fee is divided for monthly payments in pro rata for each county. The official Court Reporter has been unable to attend the last terms of the District

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Court, and a substitute Reporter used. Both file claims for the time. The County objects to paying both claims."

Article 2323, Vernon's Annotated Civil Statutes, reads as follows:

"In case of illness, press of official work, or unavoidable disability of the official shorthand reporter to perform his duties in reporting proceedings in court, the judge of the court may, in his discretion, authorize a deputy shorthand reporter to act during the absence of said official shorthand reporter and said deputy shorthand reporter shall receive, during the time he acts for said official shorthand reporter, the salary and fees as the official shorthand reporter of said court, to be paid in the manner provided for the official shorthand reporter; but the said official shorthand reporter shall also receive his salary in full during said temporary disability to act. The necessity for a deputy official shorthand reporter shall be left entirely within the discretion of the judge of the court."

Under the above quoted statute, the necessity for a deputy official shorthand reporter is left entirely within the discretion of the judge of the court. When a deputy court reporter is appointed by the court said deputy reporter shall receive during the time he acts for said official shorthand reporter the same salary and fees as the official shorthand reporter of the court to be paid in the manner provided for the official shorthand reporter. Also the official shorthand reporter shall receive his salary in full during his temporary disability to act.

Therefore, you are respectfully advised that it is the opinion of this Department that your question should be answered in the affirmative and is so answered. The salary of the deputy shorthand reporter must be paid in the manner provided for the official shorthand reporter. Both the official shorthand reporter and the deputy shorthand reporter are entitled to the compensation provided by law.

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Trusting that the foregoing fully answers your inquiry, we remain

Yours very truly

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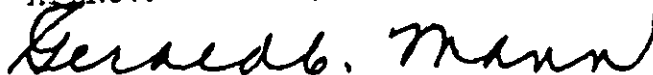
By



Ardell Williams
Assistant

AF:BBB

APPROVED MAR 23, 1940



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